IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10022 of 1994

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BIPINCHANDARA P PATEL

Versus

STATE OF GUJARAT & 3

Appearance:

1. Special Civil Application No. 10022 of 1994

MR BM MANGUKIYA for Petitioner No. 1

Mrs. Manisha L. Shah, AGP for Respondent No. 1-4

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 18/10/2004

ORAL JUDGEMENT

1. This petition under Article 226 of the Constitution of India is filed by the petitioner with a

prayer that the respondents may be directed to pay arrears of difference of the subsistence allowance and salary with permissible allowances for the period from 20th July 1984 to 17th June 1994 with running interest of 18% per annum. The petitioner has also prayed that he may not be suspended only on the ground that the acquittal appeals are to be preferred or have been preferred against the judgment and order of acquittal passed by the learned Metropolitan Magistrate, Court No.11, Ahmedabad, in Criminal Cases Nos.304 of 1986 and 14 of 1988 dated 28th April 1994. He has also repeated the abovementioned prayers to press interim relief accordingly.

2. In reply to a query raised by the Court, learned Assistant Government Pleader, Mrs. Shah, has submitted, on the basis of the written instructions, that there is neither any proposal nor intimation from any of the respondents to suspend the petitioner or deny him any salary. It is further stated that there is no intimation from the complainant for prosecution against the petitioner, nor is there any proposal to put the petitioner under suspension and/or to withhold difference of pay and allowances. She has, further, submitted that the orders have already been issued to pay the difference of salary to the petitioner, which will be paid to him in due course of time by the respondent No.4. It is further submitted that, in stead of filing the present writ petition, the petitioner ought to have made a representation before the appropriate Authority to ventilate his grievance.

3. Learned advocate appearing for the petitioner has submitted that substantial time has lapsed since filing of the present writ petition and, if any of the statements made on behalf of the respondents is yet to be carried out as per the written instructions by the respondents, liberty may be reserved to the petitioner to revive this petition.

4. The above prayer appears to be reasonable and, in case of difficulty, it is open to the petitioner to revive the petition in respect of the prayers mentioned therein.

5. In view of the above statements made by the learned advocates appearing for both the parties, no order is required to be passed. The petition is disposed of accordingly. Rule is discharged, with the liberty as prayed for, with no order as to costs.

(Anant S. Dave, J.)

(swamy)